



Mark E. Ogram
780 S. Freeman Rd.
Tucson, AZ 85748

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MAR 07 2006

OFFICE OF PETITIONS

In re Application of Ogram	:	
Application No. 09/818,262	:	Decision on Petition
Filing Date: March 26, 2001	:	
Attorney Docket No. 1414S	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 9, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

A Notice to File Missing Parts was mailed on May 7, 2001 to the address of record:

Mark E. Ogram
8040 S. Kolb Road
Tucson, AZ 85706

The Notice to File Missing Parts required the submission of specified fees along with corrected drawings.

A reply to the Notice of Missing Parts was not filed and the application became abandoned as of midnight on July 7, 2001.

A petition under 37 CFR 1.137(b) was filed on March 1, 2002. The petition was accompanied by a copy of the Notice to File Missing Parts, a claim to Small Entity status, payment of fees, and corrected drawings.

The petition was dismissed due to a fee deficiency. Petitioner submitted the fee amounts listed on the Notice of Missing Parts. However, the amount due for a fee is determined at the time the fee is paid in full, not the time the Notice is mailed. On October 1, 2001, the filing fee had been increased to \$370 for a small entity. Petitioner had paid only \$355. The decision stated an additional \$15 should be submitted.

The decision also requested petitioner explicitly make a statement very similar to the following statement, "The entire delay in filing the required reply from the due for the reply until the filing of the instant petition pursuant to 37 CFR 1.137(b) was unintentional."

The petition stated all future correspondence should be sent to:

Mark Ogram
7454 S. Kolb Road, Suite 203
Tucson, AZ 85710

The Office changed Office records to show the address immediately above as the address of record.

At this point, the Office notes the paper claiming small entity status listed an address of 780 S. Freeman Rd., Tucson, AZ 85748. However, the paper did not request all future correspondence be sent to that address.

The decision was mailed to the address of record - 7454 S. Kolb Rd. The decision was returned as undeliverable by the Post Office. The Post Office stated that no such number/street existed. A Notice of Abandonment was mailed on November 19, 2002. The decision was returned as undeliverable by the Post Office. The Post Office stated that no such number/street existed.

A request to change the address to 780 S. Freeman Rd., Tucson, AZ 85748 was filed on April 18, 2003.

Discussion:

The new petition seems to imply the Notice to File Missing Parts was never received. However, the first petition included a copy of the Notice to File Missing Parts. At this point in time, the Office will assume petitioner only intended to convey the decision on petition and Notice of Abandonment were never received.

As a matter of statutory law, the Office must require petitioner to submit the amount of the filing fee due at the time the filing fee is paid in full. Therefore, the Office and petitioner need not determine the exact reasons the papers were not properly delivered since the result will not affect the step petitioner needs to take to revive the application.

The current filing fee due for the application is \$395. Petitioner has submitted \$355. Petitioner should simply file a request for reconsideration along with \$40 to complete the requirements to revive the application under 37 CFR 1.137(b).

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

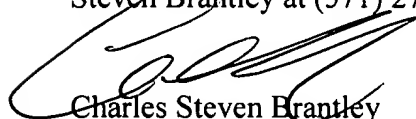
Further correspondence with respect to this matter should be addressed as follows:

By facsimile: (571) 273-8300
Attn: Office of Petitions

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney
Steven Brantley at (571) 272-3203.



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